

Before the
Federal Communications Commission

In the Matter of)
) MM Docket 96-168
Amendment of Section 73.202 (b)) RM-8836
Table of Allotments)
FM Broadcast Stations)
(Weaverville, California))

DOCKET FILE COPY ORIGINAL

TO: Secretary,
Federal Communications Commission.

**PETITION FOR LEAVE TO FILE AND MOTION TO ACCEPT ADDITIONAL
COMMENTS/OPPOSITION TO REPLY COMMENTS OF TERRY L. DUNNING.**

Corey J. McCaslin, ("McCaslin"), submits this Petition
for Leave to File Additional Comments/Opposition to Reply
Comments of Terry L. Dunning, ("Dunning"), in the above
referenced Matter. Via these Additional Comments/Opposition,
McCaslin will demonstrate that in Reply Comments Dunning:

1. Made false statements regarding McCaslin.
2. Made unsubstantiated statements regarding the
community of Hayfork, California.
3. Has sought to circumvent Section 1.420 (d)
of the Commission's Rules.

Dunning also failed to demonstrate a continuing interest
in the requested Allotment at Weaverville, California.


McCaslin requests that his Motion to Accept these Additional
Comments/Opposition be Granted.

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Respectfully submitted,

DATE: 11-4-96



Corey J. McCaslin
1351 Arcadian Ave, #D,
Chico, CA. 95926

Before the
Federal Communications Commission

In the Matter of)
) MM Docket 96-168
Amendment of Section 73.202 (b)) RM-8836
Table of Allotments)
FM Broadcast Stations)
(Weaverville, California))

TO: Chief, Allocations Branch
Policy and Rules Division,
Mass Media Bureau.

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ADDITIONAL COMMENTS/OPPOSITION TO REPLY COMMENTS OF
TERRY L. DUNNING.

Corey J. McCaslin, ("McCaslin"), will demonstrate that Terry
L. Dunning, ("Dunning"), in Reply Comments concerning the above
referenced Matter:

1. Made false statements regarding McCaslin.
2. Made unsubstantiated statements regarding the
community of Hayfork, California.
3. Has sought to circumvent Section 1.420 (d)
of the Commission's Rules.

Additionally, Dunning failed to demonstrate a continuing
interest in the requested Allotment at Weaverville, California.

INTRODUCTION.

Dunning requested the Allotment of FM Channel 299A to
Weaverville, California via RM-8836. The Commission adopted
a Notice of Proposed Rulemaking ("NPRM"), MM Docket 96-168 on
2 August 1996, released 9 August 1996. In response to the NPRM,

McCaslin did file a Counterproposal during the Comment period to Allot FM Channel 299C3 to the community of Hayfork, California. **Dunning filed no Comments during Comment period.** Dunning subsequently filed Reply Comments in opposition to the Counterproposal by McCaslin on 15 Oct. 1996, serving those Reply Comments on McCaslin via U.S. Mail. McCaslin received those Reply Comments on 19 Oct. 1996.

McCaslin now files Additional Comments/Opposition to Reply Comments, accompanied by a PETITION FOR LEAVE TO FILE AND A MOTION TO ACCEPT ADDITIONAL COMMENTS/OPPOSITION TO REPLY COMMENTS in the Matter of MM Docket 96-168, RM-8836.

McCaslin submits these Additional Comments/Opposition to Reply Comments as a matter of right and standing as Dunning, in Reply Comments, did specifically address McCaslin's Counterproposal and did make statements regarding McCaslin as an individual. McCaslin submits these Additional Comments/Opposition to Reply Comments in order that the Commission have a full and accurate record before issuing a Report and Order on this Matter.

DUNNING MADE FALSE STATEMENTS CONCERNING MCCASLIN.

There is an old adage, when applied to print journalism (the Yellow variety), that says:

" Never let the **Facts** get in the way of a Good Story."

It would appear that Dunning and his Attorneys took this

saying to Heart while formulating Dunning's Reply Comments.

Dunning, in his Sworn Statement, claims:

" The Hayfork, Ca. counter proposal is being offered by Phoenix Broadcasting, an applicant for a new Class C2 for Weaverville, Ca. ."

Untrue.

In Reply Comments Dunning's Attorney, Richard A. Helmick claims:

" McCaslin is a principal of Phoenix Broadcasting, Inc. which has filed a construction permit application (File No. BPH-960718MB) for Channel 276C2 allocation at Weaverville. "

Untrue.

Helmick goes on to state:

" The Commission should take note of the fact that McCaslin is not a disinterested party in this proceeding, but, rather is seeking to insulate the Channel 276C2 allocation at Weaverville from competition. " (Emphasis added.)

Untrue.

Helmick further claims:

" ...Dunning submits that McCaslin's counterproposal is really not practicable, but, rather, is merely an attempt to insulate the existing 276C2 allocation at Weaverville from competition. "

Also untrue.

The Facts:

McCaslin is not connected with Phoenix Broadcasting, Inc. in any manner. **Period.** McCaslin is astounded that Dunning would make such a statement, let alone under Penalty of Perjury. Further, McCaslin is simply amazed that Attorney Helmick would perpetuate this myth and employ this falsehood as a basis to attack McCaslin and the Counterproposal to Allot FM Channel 299C3 to the community of Hayfork, California. Did anyone connected with Dunning's Reply Comments think to check an Ownership Report for Phoenix Broadcasting, Inc. ? ? How about visiting the community of Weaverville, California and viewing the Public File for the Phoenix Broadcasting, Inc. application pending there ? ? Well ? ?

DUNNING MADE UNSUBSTANTIATED STATEMENTS REGARDING THE COMMUNITY HAYFORK, CALIFORNIA.

Also, from Dunning's Sworn Statement:

" ...town of Hayfork, Ca., (a community with sever (sic) economic problems.....).

Really ? ? What data did Dunning submit to support this claim ? Further, (and more to the point), the Commission has determined that **claimed economic circumstances, either plus or minus, have no bearing in the establishment of Allotment**

Priorities.

DUNNING HAS SOUGHT TO CIRCUMVENT SECTION 1.420 (d) OF THE RULES.

" If it looks like a Duck, if it walks like a Duck, and if it Quacks like a Duck---It's a Duck !! "

Dunning, through his Attorney, acknowledges that he **did** not file Comments in these proceedings, and therefore:

"..he is precluded from filing a counterproposal in his reply comments."

However, Dunning in his Sworn Statement says:

" I intend to file an amendment to modify my original Channel 299A petition to a Class C3...."

Looks like a Duck.

Dunning further states:

" I affirm that if Channel...299C3 allocation proposal is adopted..."

Walks like a Duck.

Additionally, from the Engineering Statement included as part of the Reply Comments:

" Hence, the proposed Allocation of Channel 299C3 to Weaverville, California..."

Quack ! Quack !

Clearly, Dunning has sought to circumvent Section 1.420 (d) of the Commission's Rules. After acknowledging that offering a Counterproposal in Reply Comments is prohibited, Dunning puts forth every effort to do just that. The Commission has determined that Allotment proposals must be compared vis-a-vis, using the established Allotment Priorities, and has routinely ignored pledges to seek upgraded facilities or allotments included in Reply Comments, thereby upholding Section 1.420 (d) of the Commission's Rules.

DUNNING FAILED TO DEMONSTRATE A CONTINUING INTEREST IN THE ALLOTMENT OF FM CHANNEL 299A AT WEAVERVILLE, CALIFORNIA.

In a second Sworn Statement, Dunning claims that circumstances beyond his control **prevented him from filing any Comments** during the Comment period for these proceedings. Therefore, Dunning **did not file even a statement of continuing interest in the Allotment requested.** Dunning claims that from the date the NPRM was released, 9 August 1996, until the last day to file Comments on this Matter, 30 Sept. 1996, he had no way to contact his Washington attorney or vice versa. No way to phone, fax, e-mail, Federal Express, overnight U.P.S., U.S. Mail, nothing Really ? ?

CONCLUSION.

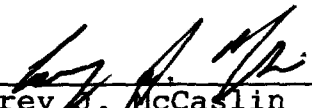
The Reply Comments of Terry L. Dunning contains false, untrue statements presented as facts, unsubstantiated claims regarding Hayfork, California, and an attempt to insert a late filed, prohibited Counterproposal. Having failed to express a continuing interest in the Allotment requested at Weaverville, California during the Comment period for this NPRM, Dunning in Reply Comments claims that circumstances beyond his control prevented such an expression of interest or the filing of any Comments in these proceedings. McCaslin reiterates that the Counterproposal to Allot FM Channel 299C3 to Hayfork, California is preferable to the Allotment of FM Channel 299A to Weaverville, California, using the Commission's own set of Allotment Priorities. Additionally, the Allotment of FM Channel 299C3 to Hayfork, California is a more efficient use of the FM spectrum versus an Allotment of FM Channel 299A to Weaverville, California.

It is my intent to apply for FM Channel 299C3 at Hayfork, California if Allotted.

The data and statements contained herein are accurate to the best of my knowledge.

Respectfully submitted,

DATE: 11-4-96


Corey S. McCaslin
1351 Arcadian Ave., # D,
Chico, CA. 95926

CERTIFICATE OF SERVICE

I, Corey J. McCaslin, do hereby certify that a copy of the foregoing, ADDITIONAL COMMENTS/OPPOSITION TO REPLY COMMENTS regarding MM Docket No. 96-168, RM-8836, has been sent via first-class mail, postage pre-paid, this 4 th day of November, 1996 to the following person:

Mr. Terry L. Dunning (Petitioner)
c/o Richard A. Helmick, Esquire
Cohn & Marks,
1333 New Hampshire Ave., N.W.,
Suite 600,
Washington, D.C. 20036



Corey J. McCaslin.